

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT STRATTON,)	Civil Action No. 05 - 1601
)	
Plaintiff)	Judge Donetta W. Ambrose/
)	Magistrate Judge Lisa
vs.)	Pupo Lenihan
)	
CO III Lt. J.A. TONY et al.,)	
)	
Defendants)	
)	

ORDER

The Court entered and Order (Doc. No. 3) on December 1, 2005, directing the Plaintiff to file a complaint with the Clerk of Court, as well as the appropriate number of service copies, no later than December 28, 2005. The Court instructed the Plaintiff that the complaint shall:

- 1) Set forth the basis for jurisdiction in the Western District of Pennsylvania;
- 2) Set forth all facts forming the basis of the cause of action;
- 3) Delineate which facts apply to each of the Defendants and clearly state the legal theory against each of the Defendants;
- 4) Clearly state the demand for damages.

Plaintiff filed an "Appeal of Magistrate Decision" (Doc. No. 5) to the District Court Judge on December 8, 2005. The District Court Judge entered an Order (Doc. No. 6) affirming the Magistrate Judge. The Court warned the Plaintiff that failure to file a complaint and supply the appropriate number of copies for service would force the Court to issue an order for Plaintiff to

show cause why this action should not be dismissed for failure to prosecute. On February 17, 2006, the court entered an order directing Plaintiff to show cause by March 9, 2006, why this case should not be dismissed for failure to prosecute based on his failure to comply with this court's order to file a complaint accompanied by the necessary number of service copies. Doc. 8.

On March 10, 2006, the Court received a Motion for Preliminary Injunction and Temporary Restraining Order, Doc. 9, complaining that the conditions of his confinement kept him from complying with the court's requirement that he file a complaint along with sufficient numbers of copies for service purposes. In addition, the motion sought injunctive relief from many individuals who were not named as defendants in the motion to proceed IFP. See Doc. 9-1 at ¶ 10. A report recommending denial of the preliminary injunction motion is being issued on the same day that this order is being filed. Furthermore, the court notes that these conditions of his confinement have not prevented him from filing a 10 page appeal of the magistrate judge's order, Doc. 5, or the 47 page motion for preliminary injunction. Doc. 9.

Plaintiff has yet to file his complaint, despite having had since November 4, 2005 in which to do so and since December 8, 2005 after being directed to do so and having represented that he would file his complaint no later than January 20, 2006. Doc. 5

at 2.

Therefore,

IT IS ORDERED this 21st day of March that Plaintiff shall file his complaint along with the necessary number of service copies no later than March 31, 2006. Moreover, Plaintiff is instructed that his complaint is not to contain any spurious nicknames for the Defendants. Failure to comply with this order will result in the suit being dismissed for failure to prosecute and/or for failure to comply with court orders.

IT IS FURTHER ORDERED that Plaintiff is allowed ten (10) days from this date to appeal this order to a district judge pursuant to Rule 72.1.3(B) of the Local Rules for Magistrates. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.

/s/Lisa Pupo Lenihan
Lisa Pupo Lenihan
U.S. Magistrate Judge

cc: The Honorable Donetta W. Ambrose
Chief United States District Judge

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